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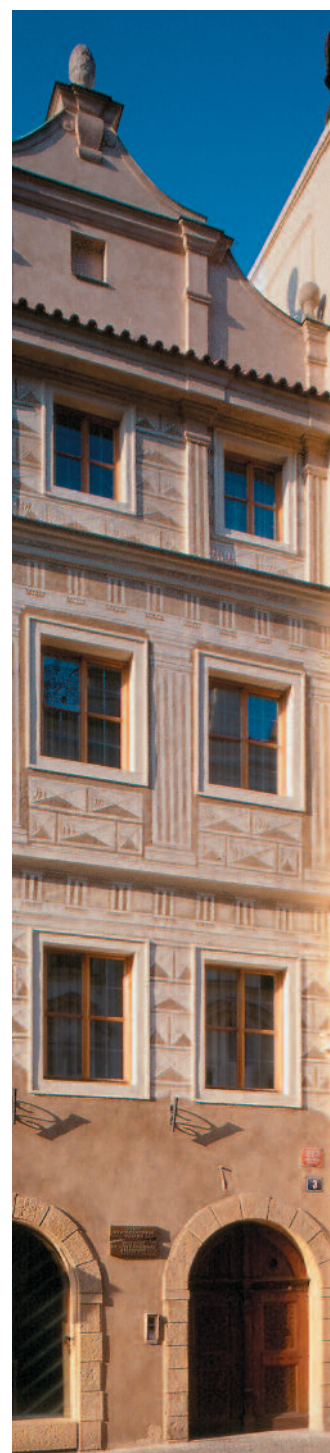
# Lost Hopes: Where to Go after the Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons?

## SUMMARY AND RECOMMENDATIONS

The 9<sup>th</sup> Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was held from 27 April to 22 May 2015 at the UN Headquarters in New York, but it failed.

The Czech Republic should engage in urging other countries to achieve progress in nuclear disarmament through a compromise approach known as “the building blocks”. In parallel, it should also actively support the process of emphasizing the humanitarian consequences of the use of nuclear weapons. Also, the Czech Republic’s good relations with Israel should focus on the support for holding a Middle East conference on the creation of a zone free of weapons of mass destruction, a project enjoying long-term EU support.

It would also be desirable for the Czech Republic to continue with its strong support for the achievement of the NPT’s universality, the early entry of the Comprehensive Nuclear-Test-Ban Treaty into force and the start of a substantive debate about the main points at the Conference on Disarmament in Geneva.



# Introduction

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) does not have the character of a disarmament treaty and misses an institutional framework, in comparison with other conventions banning chemical and biological weapons. The substance of the NPT is created by the so-called three pillars: the peaceful use of nuclear energy, nuclear non-proliferation and nuclear disarmament (Article VI). The mentioned article only illustrates the vague obligation of states parties, particularly nuclear powers, “...to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control”. The formulation in Article VI does not contain any timeline or limit for achieving nuclear disarmament either, in contrast to the specific timeline and time limit in Article III, which deals with the non-proliferation of nuclear weapons.

Due to the absence of an institutional framework, the NPT has neither a secretariat nor its own organization, unlike the more complete Chemical Weapons Convention, which bans chemical weapons. The NPT also does not enable the use of any specific enforcement

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in cases of breaches of commitments, except for the possibility of informing the UN Security Council about the breach.

Although the NPT almost has a universal membership (191 states parties), there exists the serious fact that 45 years after its entry in-

to force in 1970, there are still four nuclear-weapons states outside the NPT: India, Pakistan, Israel and, since April 2003, the DPRK as well. Israel, within its ambivalent policy, officially neither confirms nor denies its possession of nuclear weapons.

The NPT played an important role during the negotiations of the Comprehensive Nuclear-Test-Ban Treaty (hereinafter CTBT), which has so far not entered into force, and in the moratoriums on the nuclear tests that are regularly declared by the nuclear-weapon states. The NPT also has a big impact on the creation of the nuclear-weapon-free zones, which increase the regional and global security. Through the International Atomic Energy Agency safeguards system, the NPT provides a multilateral framework for verifying the fulfilment of non-proliferation obligations and enables an international cooperation in the peaceful use of nuclear technology.

# The NPT Review Process in General

NPT Review Conferences are held in five-year intervals. The aim of the Conferences in general lies in the reviewing of the implementation of the Treaty's provisions for the last five-year period and making recommendations in regard to further strengthening and fulfilling its objectives. The success or failure of the Conferences, whose final documents are approved by a consensus, predetermines the negotiations of three preparatory committees in the period between two individual conferences.

After the end of the Cold War there could be found mixed results in the review process. For example, the 1990 NPT Review Conference failed, particularly because the United States refused its obligation to negotiate the CTBT, although the goal was predetermined by the NPT. The subsequent conferences were characterized by some positive events, though. The 1995 NPT Review and Extension Conference consensually extended the NPT indefinitely, and also passed decisions on strengthening the review process and on the principles and objectives for nuclear non-proliferation and disarmament as well as the Resolution on the Middle East.

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The resolution invited all the countries in the Middle East region to create a zone without any types of weapons of mass destruction. In the same period, the United States also took over the leading role in the CTBT negotiation in the Conference on Disarmament in Geneva. Although the 6<sup>th</sup> NPT Review Conference in 2000 was negatively influenced particularly by the Indian and Pakistani nuclear tests in 1998 and the refusal to ratify the CTBT in the U.S. Senate in 1999, its conclusions became a strong stimulus for the consistent fulfilment of the regulations of the NPT, especially in the nuclear non-proliferation and disarmament area. Subsequently, the 7<sup>th</sup> NPT Review Conference in 2005, held during G. W. Bush's presidency, collapsed due to the different positions of the states parties, as they were unable to achieve any kind of agreement.

In contrast, the successful progress of the 8<sup>th</sup> NPT Review Conference in 2010, which took place in a relatively favourable atmosphere that was primarily influenced by President Obama's Prague Speech in April 2009, was completed by the approval of the Final Document. The second part of it, which was titled "*Conclusions and Recommendations for Follow-on Actions*" and also called the Action Plan in the document, included 64 actions. The Action Plan consists of four groups of commitments in the areas of the peaceful use of nuclear energy, nuclear non-proliferation, nuclear disarmament and the process leading to a full implementation of the 1995 Resolution on the Middle East (the Action Plan contains an initiative to start the process).

# The Strategic Context of the Ninth NPT Review Conference (27 April–22 May 2015, New York)

The Ninth NPT Review Conference was presided over by the Algerian ambassador and was attended by about 190 countries, including Palestine, and also by the representatives of various international and non-governmental organizations. At this conference, a delegation from Israel, a non-member state of the NPT, participated with an observer status for the first time. The negotiations took place in the context of a very complicated international situation which was characterized particularly by the worsening relations between the United States and Russia, the fact that both countries currently possess more than 90% of the world's total nuclear military arsenal, and also by the crisis development that occurred mainly in the Middle East region.

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Besides the controversial Russian policy against the eastern part of Ukraine and the Russian annexation of Crimea, which led to the acceptance of anti-Russian sanctions by Western countries and Russia's subsequent anti-western measures, the United States and NATO continued with their construction of the Alliance's Ballistic Missile Defence systems (BMD) near the Russian borders. Officially the BMD's construction has been justified by threats coming mainly from the Iranian nuclear and missile programme.

But the mentioned phased construction of the BMD was preceded by the US's one-sided withdrawal from the 1972 US-USSR Anti-Ballistic Missile (ABM) Treaty in 2002, and in connection with this, the BMD construction has been viewed by Russia as a threat to the security interests of the country and a violation of the strategic balance. The BMD's construction and the Russian effort to balance the American superiority in terms of conventional weapons by a modernization of Russian nuclear weapons and their delivery vehicles have a negative impact on the mutual relations. Russia, for example, rebuffs the repeated proposals of the Obama administration to reduce both US and Russian deployed strategic nuclear weapons by one third below the ceilings set by the 2010 New START treaty (from 1,550 to 1,000 pcs) after the obligations of the treaty are met. Both sides also mutually accuse each other of violations of the 1987 Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles (500–5,500 km), which is known as the INF (Intermediate-Range Nuclear Forces Treaty). Furthermore, the pace of the military operations and the mutual provocations near the borders between Russia and the Alliance countries are dangerously increasing, which lead to an escalation of the spiral of the military tension, which currently resembles the tension of the Cold War era.

The crisis development in the Middle East has been characterized by the continuation of the civil wars in Syria, Libya and Yemen, and the not very successful fight of the coalition countries led by the United States against the so-called Islamic State in Iraq and Syr-

ia. The mentioned development has been proceeding against the background of the ethnic-religious conflict between the Sunnis and Shiites, whose main sponsors and also regional rivals are the rich Sunni feudal states of the Persian Gulf, led by Saudi Arabia, and the Shiite Iran. From the arms-control and disarmament viewpoint, in the region there exists an enormous concentration of states which are not parties to one or more international treaties or conventions relating to weapons of mass destruction. The main treaties of this sort are the Biological and Toxin Weapons Convention (BTWC), the Chemical Weapons Convention (CWC), the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the Comprehensive Nuclear-Test-Ban Treaty (CTBT). The majority of the regional countries also have also some kind of research, development or military programme related to weapons of mass destruction. In addition, chemical weapons were massively used in the region by Iraq during the Iraq–Iran conflict (1980–1988) and later by Saddam Hussein’s regime against the Kurds. Chemical weapons (CWs) were also used during the Syrian civil war in 2013. This resulted in Syria’s accession to the Chemical Weapons Convention, the successful transport of all CWs from the country and their subsequent elimination. It should also be mentioned here that in the 60s, Israel, in regard to the security threat from the coalition of Arabic states, started its development and subsequent production of nuclear weapons, despite the fact that officially the country practices an ambivalent policy towards their possession.<sup>1</sup>

## The Criticism of the Formulations in the Draft Final Document Related to Nuclear Disarmament

In comparison with the more emphatic wording related to nuclear disarmament of the Action Plan of the 8<sup>th</sup> NPT Review Conference in 2010, which was held, as mentioned, in a more favourable atmosphere, some formulations of the proposed Final Document were vaguer. The proposed document, for example, had no mention of the slow pace of the disarmament process and the relevant recommendations requesting a reversal of this unfavourable development. What was missing as well was any recognition of the significant fact that the humanitarian consequences of nuclear weapons use, as presented at the three conferences dealing with the issue (those in Oslo [2013], the Mexican State Nayarit and Vienna [both in 2014]), urgently push us to intensify the nuclear disarmament activities. The text also did not fully appreciate, but only took into account the joint statement of 159 states presented by Austria calling for a ban on nuclear weapons due to their catastrophic humanitarian consequences.

<sup>1</sup> See Tůma, Miroslav: *Jak dál v jaderném nešíření a odzbrojování*. Praha: Ústav mezinárodních vztahů, 2014, pp. 84–91.



The related provision of the text also puts the joint statement on the same level as the more moderate joint declaration of 26 states presented by Australia, which emphasized not only the humanitarian aspect of nuclear weapons but also their security aspect. The proposed text also mentioned the necessity of preventing nuclear proliferation under any circumstances, but there was no mention in this context of the possession of the weapons and their use, which de facto trivialized the threat of their usage. Furthermore, according to the evaluation of the text by the majority of the non-nuclear weapons states and non-governmental organizations its proposed wording, particularly in relation to nuclear disarmament, was not sufficiently binding for the nuclear-weapon states. Overall, as a result the document made the impression that it rather reflected the interests of the nuclear-weapon states in the spirit of the promotion of the aforementioned slow-paced nuclear disarmament. At the same time, it derailed the growing pressure that the majority of non-nuclear states put on nuclear states to achieve progress in nuclear disarmament in connection with considerations of the catastrophic humanitarian consequences of nuclear weapons usage.

## The Failure of the Conference due to the Rejection of the Draft Final Document

The month-long session of the 9<sup>th</sup> NPT Review Conference finished with the rejection of the Draft Final Document.<sup>2</sup> The draft, which was to be approved using a consensus mechanism, traditionally contained provisions related to the above-mentioned three main NPT pillars – nuclear non-proliferation, nuclear disarmament and the peaceful use of nuclear energy.

The failure was caused by the negative attitudes of the United States, the UK and Canada towards the wording of the document's provisions related to the convening of a Middle East conference with the aim

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to facilitate progress toward a zone free of nuclear weapons and other weapons of mass destruction in the region.<sup>3</sup> The mentioned states opposed mainly the setting of a

concrete date for the convening of the conference. The US delegation, after the consultations of its member Thomas Countryman in Israel, mainly defended its negative po-

<sup>2</sup> Draft Final Document, Volume I., 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/ CONF.2015/R.3, 21 May 2015.

<sup>3</sup> Acheson, Ray: *2015 NPT Review Conference Outcome is the Humanitarian Pledge*. Reaching Critical Will of WILPF, 23 May 2015.

sition by pointing to the alleged “arbitrary” character of the formulation of the passages regarding the convening of the conference because in their view, these passages lacked statements about the necessity of a primary consensus of all the Middle East countries about their participation in the conference.<sup>4</sup> The mentioned opponents of the wording would evidently prefer the indefinite formula “...to hold the conference as soon as possible”, as the expected time of the conference was also always formulated this way in various documents during the previous years after the repeated postponing of the conference (it was originally planned for 2012). But the proponents of the proposed wording, who were mainly the members of the League of Arab States led by Egypt, wanted to avoid such a vague proposal of the date of the convention of the conference, so that the conference would not be repeatedly postponed anymore because of Israel’s reluctance to attend it.

As regards Israel’s position, shortly after the approval of the Final Document of the 8<sup>th</sup> NPT Review Conference in 2010, Israeli Prime Minister Netanyahu refused Israel’s participation at the conference of Middle Eastern countries that was originally planned for 2012. But subsequently, Israel participated in several unofficial meetings of the Middle East countries that were organized by the European Union and some non-governmental organizations. They dealt with the matter of the convening of the conference. However, in September 2014, during a session of the International Atomic Energy Agency, the Israeli delegate expressed his negative view of the conference again, though he did not explicitly reject the possibility of Israel’s participation in it.<sup>5</sup>

A relevant part of the provision no. 169 of the Draft Final Document states that the parties of the Review Conference “...[entrust] *the Secretary-General of the United Nations to convene the conference no later than 1 March 2016, to which all States of the Middle East (members of the League of Arab States, [the] Islamic Republic of Iran and Israel) will be invited*”. The same part stated that the aim of the conference should be to launch “...*a continuous process of negotiating and concluding a legally binding treaty establishing a Middle East zone free of nuclear weapons and all other weapons of mass destruction on the basis of arrangements freely arrived at by the States of the region*”. The UN Secretary General and the co-sponsors of the 1995 Resolution on the Middle East were also committed to the relevant provision to ensure that the conference would not be postponed. The provision also stressed that the major task for all states of the Middle East was to ensure adequate preparation for and a successful outcome of the conference – e.g. they were “... *to engage without delay in direct consultations through preparatory meetings...*” with the aim to come to a consensual agreement with the agenda of the conference. According to the document, the conference should be con-

<sup>4</sup> Eichner, Itamar: *US Pushes Israel for Progress on Nuclear Free Zone*. Ynetnews, 21. 5. 2015. Online: <http://www.ynetnews.com/articles/0,7340,L-4660237,00.html>.

<sup>5</sup> *Middle East Free Zone*. Acronym Institute. Online: <http://www.acronym.org.uk/core-work/middle-east-wmd-free-....>

vened by the UN Secretary General within 45 days after the agenda is agreed. The UN Secretary General should also appoint a special representative, who, together with the co-sponsor states and the Middle East countries, would facilitate the whole process and ensure successful preparations for the conference and its positive outcome. Besides the Middle East countries, some other participants with observer status were also invited to the conference: these included the nuclear-weapon states, the International Atomic Energy Agency (IAEA), the Organization for the Prohibition of Chemical Weapons (OPCW), the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty (CTBTO), the Biological Weapons Convention Implementation Support Unit (BWC-ISU) and the League of Arab States (LAS). The conference should also define the follow-up steps that would lead to the establishment of the mentioned zone.<sup>6</sup>

## The Supposed Next Development in the Nuclear Disarmament Area

The course of the 9<sup>th</sup> NPT Review Conference was characterized by the increasingly considerable frustration of the majority of the non-nuclear weapon states and non-governmental organizations with the slow pace of the nuclear disarmament process and the continuing modernization of the nuclear arsenal of the so-called declared nuclear-weapon states (China, France, Russia, the USA and the UK).

The sticking of these states, which are also known as the P5, to the policy of a slow approach to nuclear disarmament, which is called the “step-by-step approach”, and their

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refusal to accept any timelines and various additional commitments – e.g. the decreasing of the role of nuclear weapons in military doctrines, the de-alerting of some of these weapons, which are currently ready to be launched in minutes, and others – further strengthened the resolution of the opponents of this development not to be reconciled to the situation.

While after the end of the Cold War period the world community witnessed a substantive reduction in the amount of nuclear weapons and their means of delivery, this positive trend has been derailed by their continuing modernization, which results, among others, in an enormous increase of their explosive capacity.

<sup>6</sup> Draft Final Document, Volume I. 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/ CONF.2015/R.3, 21 May 2015. The Middle East, particularly implementation of the 1995 Resolution on the Middle East, p. 22.



Currently, the nuclear-weapon states and some of their nuclear-dependent allies, in some cases, are participating in the Alliance's conception of the nuclear sharing arrangements, which is in contradiction with the NPT, which supports the idea of the "security benefits" of nuclear weapon possession (the substance of the "nuclear deterrence"). However, according to the view of some non-governmental organizations and non-nuclear weapon countries, the position of the nuclear-weapon states has been based on their belief that they have the right to own nuclear weapons indefinitely without taking into account the risks, consequences, or injustice of the situation for states that lack nuclear weapons but still have their security interests.

The nuclear weapon states were in a distinct minority in terms of their opinions at the 9<sup>th</sup> NPT Review Conference. Despite their declared support for a world without nuclear weapons they did not seem to be willing to accept a compromise or any new measures to fulfil their legal commitment arising mainly from NPT Article VI. Their indirect advancing of the view that nuclear weapons possession is the main source of the power and the authority within the international community is dangerous and unjustifiable. This view was related to the nuclear states' self-contradictory assertion that the ownership of nuclear weapons of these countries has not represented a threat to the world community, but it was actually more likely that it served as a preventive hedge against the usage of nuclear weapons. Nevertheless, the absolute majority of the NPT states parties believed that the only reliable way to prevent the proliferation and use of nuclear weapons would be an accelerated ban on them and their subsequent destruction.

Various subsidiary initiatives in favour of the nuclear disarmament process – e.g. the achievement of a higher level of transparency in regard to the possession of nuclear weapons with the creation of the P5 Glossary of Key Nuclear Terms, the improvement of the effectivity of some verification measures, the relatively new initiative of the United States and the similar long-term UK-Norway effort – are significant and highly appreciated. However, some arms-control experts are of the view that if one takes into account the current state of security and the possible risk of unintentionally launching a nuclear weapon, the acceptance of other measures would be preferable. For example, there is the obligation not to be the first country to use a nuclear weapon in a conflict, but so far it was officially accepted only by China and India. Another possible arrangement could be to start as soon as possible the US-Russia dialogue about both countries refraining from putting their nuclear weapons on high alert or reducing the alert statuses of a part of their nuclear arsenal. For example, both countries could accept the obligation to end the "launch-on-warning" policy, in which an attacked country could launch a retaliatory nuclear strike before the adversary's nuclear

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weapons fall on its territory. Due to the short flight of the strategic ballistic missiles (from 15 to 30 minutes), though, this policy “puts an enormous strain on the nuclear chains of command in both countries”, as they would have to decide in several minutes about whether they will carry out a retaliation strike. Thus, a provocation or a failure of the warning and decision-making systems could cause a global disaster. This is a relic of the Cold War’s nuclear strike doctrine, and it considers the possibility of two other variant scenarios of the nuclear weapons use besides those mentioned above – the first strike and the post-attack retaliation. With the continuing duration of the concept of “mutually assured destruction”, in the framework of the nuclear deterrence policy, it cannot be excluded that Russia and the US still consider the mentioned variants to be possible.<sup>7</sup>

However, in spite of the collapse of the Review Conference, it is safe to say that a positive phenomenon was created by the non-nuclear weapon states’ wide majority support of the Vienna Conference’s document from December 2014 called The Humanitarian Pledge, which was originally titled The Vienna Pledge. Taking into account the main supporters’ attitudes with regard to the document it can be supposed that these countries will develop a diplomatic effort in the near future to start the negotiation process for a legally binding treaty banning nuclear weapons, even if the nuclear-weapon states are absent in this process. Considering the more than twenty years of the stalemate in the main disarmament forum – the Conference on Disarmament in Geneva, the next place for the disarmament negotiations could be the UN General Assembly or another UN body, since such bodies lack the limiting restraint of a necessary consensual acceptance of the relevant proposals. Certain hopes are also put into the possible renewal of the Open-Ended Working Group’s negotiations, authorized by the relevant UN General Assembly resolution during the autumn 2015 session.

The decision to put a specific deadline on the convening of the Middle East conference to deal with the Middle East zone free of nuclear weapons and all other weapons of mass destruction, and some other passages from the Draft Final Document, which the US delegation and those of some other countries used to justify their negative approach to the document (saying that they had problems with the wording), were the reactions of several countries (mainly the Arab countries led by Egypt) to the thus far negative development in regard to the question of the conference. It cannot be excluded that the Arab states and Iran may try to achieve the convening of the conference at any price, possibly even under the condition of Israel’s absence.

The successful finalization of the agreement between the P5, Germany and the EU on one side and Iran on the other on July 14<sup>th</sup>, 2015 was a very positive contribution to the

<sup>7</sup> Cartwright, James E.–Dvorkin, Vladimir: “How to Avert a Nuclear War”. *International New York Times*, 19 April 2015. Online: <http://www.nytimes.com/2015/04/20/opinion/how-to-avert-a-nuclea...>

solving of the regional security problems, mainly those in the nuclear non-proliferation area. However, in spite of its positive consequences on regional nuclear non-proliferation, it will probably not have a considerable impact on any eventual decreasing of the ethnic-religious rivalry between the two main rivals in the region – Saudi Arabia, which represents the Sunnis, and Iran, which represents the Shiites. In the case of Israel, although a successful finalization of the agreement would create enormous strict barriers for a possible transition of Iran's peaceful nuclear program to a military one, one can hardly suppose that there will be a diminishing of the fundamental negative anti-Iranian attitude on the part of Israel. After the anti-Iranian sanctions are lifted, Israel will face a new challenge in this respect: there will probably be Iran's reopening to the world economy, including its increasing cooperation with the Western countries, a rapid economic development of the country and its further support to the Lebanese Hezbollah and other Shiite Islamic groupings. However, even now Iran has become an important ally of the Alliance led by the United States in the fight against the so-called Islamic State, though its status as a US ally was not publicly or officially confirmed by the US side.

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## The Final Recommendations

The unsuccessful result of the 9<sup>th</sup> NPT Review Conference thwarted the hopes for an acceleration of the nuclear disarmament process. The refusal of some of the participants to support the convening of the Middle East conference that would deal with the proposed zone free of nuclear weapons and other weapons of mass destruction has not contributed to the strengthening of the arrangements for the prevention of nuclear proliferation or to any overall increasing of security and trust in the Middle East region. The session and its result deepened the contradictory positions of the nuclear-weapon states and the majority of the non-nuclear-weapon states as regards the further continuation of nuclear disarmament, and it has obviously ruined the NPT's credibility – above all, that of its nuclear disarmament pillar.

In this situation, it is recommended that the Ministry of Foreign Affairs of the Czech Republic should take the following positions in diplomatic negotiations:

- It should continue in its support for all steps leading to the strengthening of the NPT – e.g. the achievement of its universality, an early entry into force of the Comprehen-

sive Nuclear-Test-Ban Treaty and an increase in the efficiency of the Conference on Disarmament in Geneva;

- It should strongly support the fulfilment of all of the NPT's provisions, especially those connected with *the Prague Agenda*, and emphasize the necessity of this;
- It should be actively engaged in the process of the implementation of the *building blocks* conception, e.g. as regards nuclear doctrines and the lowering of the alert statuses of nuclear weapons, and make an effort to gain for this approach that would facilitate the way to nuclear disarmament as many countries as possible, but mainly nuclear powers;
- In an effort to achieve an acceleration of the nuclear disarmament process, it should take into consideration and stress the catastrophic humanitarian consequences of nuclear weapons use;
- In its bilateral negotiations with Israel the MFA should support the intention to convene the Middle East conference on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction.<sup>8</sup>

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